

Panaji, 28th November, 1991 (Agrahayana 7, 1913)

SERIES II No. 35

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Labour

Order

No. 28/2/88-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Governor of Goa,
Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 8th August, 1988.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(Before Shri S. V. Nevagi, Hon'ble Presiding Officer)

Reference No. : IT/16/82

Kum. Leela S. Sawant — Workman/Party I
 V/s

M/s. Adarsh Sahakari Grahak — Employer/Party II
 Saunstha

Workman is represented by Shri P. Ghodge.
 Employer is represented by Shri P. K. Lele.

Panaji, Dated : 30-6-88.

AWARD

This is a reference received from the Govt. of Goa, by its order No. 28/31/81-ILD dated 31st March, 1982 with an annexure scheduled thereto which reads as follows :

"Whether the action of the employer of M/s Adarsh Sahakari Grahak Saunstha Limited, Margao-Salcete, Goa in terminating the services of

Kum. Leela S. Sawant, Accounts Clerk, with effect from 1-1-1980 is legal and justified ?

If not to what relief the said workman is entitled to ?"

2. The above reference was received in the office and registered on 14-4-82 and notices were issued to the parties for appearance to give their say in the matter. It appears that the matter has rather chequered career and history. In response to the notice issued by the Tribunal the parties did appear in the Court and it appears that the Opponent/employer had made a default at the initial stage only. The roznama dated 4-5-82 shows that the workman, her representative and office Secretary of the O. P. Society were present and the matter was adjourned for written statement on 11-6-82. On 11-6-82 the Society's representative by name P. Harmalkar remained absent and consequently no written statement was filed and the matter was adjourned for the evidence of the workman and on the adjourned dates the representative remained absent for 4 consecutive dates namely 7-7-82, 11-8-82, 6-10-82 and 14-10-82. The evidence of the workman and her brother was recorded and the ex-parte award was passed by my Predecessor on 8-11-82 while the process of sending the copies of the award to the Govt. was being finalised the employer appeared and by an application dated 9-9-83 requested for setting aside the ex parte order on the grounds that the Society had in fact passed a resolution on 29-7-83 and had directed the Secretary or legal advisor to appear on behalf of the Society in the Court. The Secretary inadvertently failed to appear in the Court and requested to set aside the award on the justifiable grounds. The matter was considered by my Predecessor and he by a speaking order dated 2-1-84 set aside the ex-parte order and directed that the matter be heard afresh, the case having been restored to its file and the next date was fixed for filing the written statement of the Society on 27-1-84. On this day the Society applied for the certified copy of the claim statement of the workman who was absent and her representative was also absent.

Consequently notice was issued to them and the Society filed the written statement on 5-3-84. After the rejoinder was filed and the issues were framed on 20-7-84 the matter was posted for recording the evidence. On 8-3-85 the Society moved an application for the amendment of the written statement and the amendment to the written statement was filed on 25-4-85 and the rejoinder was filed on 7-6-85. On 1-11-85 order was passed to drop issue No. which was set up as preliminary issue. That was the only issue for consideration regarding the right of the Party I to move an application under the I. D. Act. That issue was not pressed by the O. P. Society. With this position obtaining in the case, my Predecessor directed that there being no other issues besides these involved in the order of reference evidence of the parties be recorded and on that day the evidence of the Employer's witness Ramesh G. Naik was recorded and he produced certain documents admitted in to evidence at Exb. 1, 2, 4, 5, 6, 7 and 8. Thereafter the matter was adjourned from time to time for one reason or the other or either of the party remaining absent. Thereafter on 22-5-86 the evidence of the employer's witness Naik was completed and he produced some Society register in the matter. Thereafter the matter was adjourned for the evidence of workman's evidence by name Raghuvir L. Gaunekar. While this was the position my Predecessor retired on superannuation and the matter was pending on sine die list and after I took over the matter was taken up for consideration and after notices the parties appeared on 25-11-87 and the evidence of Ramesh Naik was completed on 10-12-87 and the prayer for re-calling the workman and her witness for cross examination was granted because there was no cross examination as the preceding was held ex-parte. The request was granted and the matter was adjourned for the appearance of the witness and the cross examination of the workman and her witness Shirishkumar was completed on 10-3-88 and the matter was argued over on 27-4-88. Now I have to consider the case of the workman who has challenged the action of the management of the O. P. Society in terminating her services w.e.f. 1-1-1980 mainly on the ground that she had voluntarily abandoned the services and secondly on the ground that there was misconduct on her part and that the management of the Society was left with no other alternative then to terminate her services on the ground of continuous absenteeism from the services. The action of the management in terminating the services of the workman has come in for consideration and it would be necessary to study the matter in rather minute details because the evidence is partly recorded before my Predecessor and after a gap of about 3 years the tail end action of completing the examination has been taken before me. As the conduct of the workman in remaining absent continuously has come in for severe criticism I shall first study her evidence to see whether she is really guilty of the conduct attributed to her or whether this is a case of victimisation as claimed by the workman. There are certain dates which are self eloquent and I shall start the examination of the record with these self eloquent facts and for this purpose I shall go through the oral testimony of the workman who is

examined at 2 stages namely before my Predecessor in the ex-parte proceedings on 11-8-82 and in the cross examination which took place before me on 10th March, 1988. That way, the examination in chief is not much material yet, some dates are material because it is the statement of the workman in the ex-parte proceedings. The workman states that since 1st April, '68 she was working as a Accounts Clerk with the O.P. M/s. Adarsh Sahakari Grahak Saunstha Ltd., at Aquem, near Margao and it was a branch society named Aquem Service Co-operative Society Margao. This Aquem Society was amalgamated with the Adarsh Sahakari Grahak Saunstha Ltd. in January, '76 and since then she was working with that Society which is the O. P./Party II in this case.

3. The relevant dates with which we are now concerned are given by her in the 2nd para of her testimony. According to her, on 31st December, 1979 she was deputed by the office to take stock at the Aquem Service Co-op. Society. According to her on her way to that Society she was taken ill and so she came back to the main office. The idea was to go home from the main office. However, the Incharge of the office told her to go back to the Aquem Shop and to try to see if she could finish up the job. According to her, she started to go to the Aquem shop and on the way she fainted and so she went home and she did not know what transpired since 31st December, '79. According to her she was taken ill and she could not understand anything that was happening around her. According to her, her sister had gone to the Society office to appraise them of her illness and the cause of her absence. According to her she did not know this then but subsequently her mother told her that proper step was taken to inform the Society about her absence. Any way on her showing she was absent from duty from 31st December 1979 i.e. actually 1-1-80 till 1st June, '80. This is a gap of 5 months and during this period no step was taken by her to inform the Society about her continued absence. With this position, I shall advert to what she states in her cross examination taken before me. Be it noted here pertinently that the ex-parte examination in chief was conducted on 11-8-82 and the cross examination was taken before me on 10-3-88.

4. In the cross examination she admits that while working as the Accounts Clerk with the Party II she was absent from duty on 30-12-80, after the absence on that day she reported for duty on 31-12-80. She was asked prior to 30-12-80 to complete the stock taking in the Aquem Shop on 30-12-80 and she could not complete that work till 30-12-80. She admits that during the fortnight of the second half of the month of December '80 she was asked by the Society to complete the work of stock taking. Instead of completing the work of stock taking she abruptly left the Society office on 31-12-80 and went home without reporting to anybody and she now states that she had fainted and she does not remember anything about what transpired between 1-1-80 to 1-6-80. She admits that after she abruptly left the Society office on 31-12-80 the Society had sent one man to meet her and to know about her

sickness. She admits that the person had gone to the house where she used to reside (this workman is a spinster and resides with her mother at Margao). She was inside the room of her mother's house and she had heard what was going on in the front room of her mother's house. She heard that her mother told the man from the Society that because she was depressed on account of the pressure of the Society, she would not meet that person. Anyway the messenger of the Society was sent back by her mother and the workman who knew about the messenger did not find it convenient to meet him and appraise him of her sickness.

5. With the episode of the messenger of the Society the next event which took place is the issuance of the letter by the Society. The workman admits that on 25-2-80 the Postman went to her mother's house with a registered letter. According to her the Postman was requested to come inside as she was not keeping well. According to her the Postman refused to come inside the house and refused to deliver the letter inside the house. Any way she did not bother about the Regd. letter and now it is found that the Postman made an endorsement on the letter that she had refused the same. The 3rd episode is in March, 1980. There is the registered letter bearing the endorsement of the Postman dated 10th March, 1980 that she had declined to accept the letter. Her attention was invited to the consecutive endorsement on the postal packet dated 5th, 6th and 7th March stating that the Postman had gone to her house with the registered article and she has refused the same. With this a suggestion is put to her that she deliberately refused to accept the Society's letter on 25-2-80 and 10-3-80 and these two refused letters are on record.

6. The next break to the position is the letter which the Society issued to the workman on 19-4-80 also by registered post and the workman has admitted that she infact received this letter dated 19-4-80 and for reasons best known to herself she chose to remain quiet till 1st June, 1980. The first two letters dated 1-2-80 and 8-2-80 are sent by ordinary post and the last two letters dated 19-2-80 and 28-2-80 are sent by Regd. post which were refused by the workman as seen from the postal endorsement. Thus after giving reference of these four letters the Society has informed her that while the physical checking of the stock during the end of December, 1979 was to be completed by her in her capacity as a Accounts Clerk she abruptly remained absent and left the office without informing anybody and continuously remained absent from 1st Jan., '80. The Society has stated that no steps whatsoever were taken by her till the date of issuance of the Regd. letter to inform the Society about the cause of her continuous absence but on the contrary she had refused to accept the last two registered letters. The Society has therefore informed her that she who was a Sr. employee of the Society working as an Accounts Clerk and who knew the rules about leave etc., fully well had deliberately stifled the orders of the superiors by refusing to give explanation about her continuous absence and had remained absent from 1-1-80 till the day of notice i. e. 19-4-80. Hence the letter was styled

as a notice u/s 39 Sub-Sec. 4 read with rules 22(k) of the Shops and Establishments Act informing her that she had shown by her conduct that she no more desired to remain in the services of the Society and as such she had voluntarily abandoned her services w.e.f. 1-1-80 and accordingly the Society had passed a resolution to that effect. The Society it seems had taken care to send a copy of the letter to the Labour Commissioner for information. To this notice no reply was sent by the workman for a period of one month 11 days and the stance was broken for the first time when she sent a letter dated 1-6-80 which the Society received on 3-6-80 as seen from the endorsement of the Society. In this letter, she informed the Society that while she was asked to take the stock of the Aquem Stores for the preceding 6 months, she fainted and went home and as there was nobody in the house to inform the Society in writing she had sent an oral message sometime thereafter. She admits that the messenger was sent from the Society to enquire about her health but she could not meet him because the Doctor had advised her complete rest. The family members were disturbed feeling that something wrong had happened so she could not inform the Society about her sickness. Her application was accompanied by the medical certificate. To this the Society sent a reply Exh. 7 dated 16-7-80 and in the reply the history of her continued absence was given and the Society was not convinced about her so called sickness and the Society was not prepared to take her back in the service in view of the resolution of the Society and the Regd. letter dated 19-4-80. This is the sum and substance of the events which took place in the matter and the services of the workman and most of the facts are admitted by the workman and the workman for reasons best known to herself had remained absent from service for a period of 5 months from 1-1-80 to 31-5-80 and inspite of the receipt of the notice of termination dated 19-4-80 she did not take any steps till 1-6-80 to inform the Society about her willingness to rejoin the duty. The cumulative effect of all these facts has to be taken into consideration to understand the conduct and attitude of the workman and to see whether the action of the Society in terminating the services of the workman under these circumstances is just and legal and whether the same calls for any interference and whether and what relief the workman is entitled to in the above circumstances which are clearly brought on record and which are admitted by the workman.

7. I have gone through the conduct of the workman rather in detail in the foregoing paragraphs just to understand whether this is a case of victimisation and whether the conduct of the workman herself is responsible for the action of the management or whether the management is to be blamed to some extent in the entire happenings. As noted above, the workman by her own conduct has incurred the rath of the management and no efforts seem to have been made by her or the members in her family to win the confidence and sympathy of the management. Besides, the workman, the conduct of the family members also does not seem to be much praise-worthy. The sister who has stated

to have conveyed the oral message to the Society in January or February '80 is not examined in the case. The person who is examined on her behalf is her own brother whose conduct appears to be Tom boyish and irresponsible member of the family where the present workman was the main though not the sole bread earner. Her brother by name Sirish Kumar states in his examination in chief recorded on 6-10-82 that he hired a taxi on learning about her fainting on the road on 1st January and brought her home. According to him her sickness was prolonged and her condition deteriorated. He states that Postman came with the letter regd. article and the Postman was not prepared to hand it over to anybody else other than the concerned person. This does not appear to be convincing because a postal article can be delivered to anybody. About the sickness of the workman he states that his sister by name Sharad wrote a letter to the management of the Society giving information about the illness. This is an over statement made by the brother because it is nobody's case that such a letter was sent by the sister. The replies given by him 6 years later in cross examination before me are a picture of more senseless and irresponsible statements. While admitting that in 1980 he was a member resident in the same house he states that he was present in the house when the Postman came and the Postman refused to give him the letter. According to him his sister never told him about the Regd. notice sent by the Society on 19-4-80. He further states that he did not find it necessary to go to the Society office and inform them about the sickness of his sister. This is the attitude of the sole adult male member of the family who did not even think that the failure to report to the Society would call for severe action by the Society and he says that he did not know about the action dated 19-4-80. This is the attitude of the workman and her brother towards the instant case and it is very clear that they have invited the action of termination of services by their irresponsible act and behaviour. It has to be noted here pertinently that this is a case where the workman does not state or even allege that she is victimised or that the management or any member of the Society was having ill will towards her. Infact this is a case of malice towards none. The action of the Society shows that it was constrained to take the necessary action against the defaulting workman for 3 grounds mainly.

8. The first ground is that she abruptly left the services on 31-12-79 and went home without reporting to anybody. This action has a background of its own. The workman who was an Accounts Clerk was asked to take a check of the stock of the preceding 6 months in the Aquem Stores and the workman for some reason had failed to check the stock. It is in the correspondence between workman and the Society that there was some defalcation and shortage in the stock and the workman acting as a Accounts Clerk was likely to be held responsible for the same. This may be the reason why the workman abruptly left the services on 31st December, '79 with no intention to come. For this reason the family members got scared when the Society man came to enquire about her and evasive replies

were given to the Society man Raguvir L. Gaunekar and no attempt was made to get a meeting between workman and Mr. Raguvir. This is the first incident which aroused the suspicion of the management. The second incident is lack of response to the first two letters sent by ordinary post and flat refusal to accept the two letters sent by Regd. post. This is the reason No. 2. The 3rd reason is the notice issued by the Society on 19-4-80 which was a last chance given to the workman but the workman chose to keep quite for a period of over 1 month and 10 days and she took the belated action on 1-6-80 by sending the letter explaining her absence. All these three grounds show that the action of the management is well justifiable and the witness of the Society Ramesh Naik had explained the circumstances under which the Society was constrained to take the action against the workman by sending the Regd. letter Exb. 5 dated 19-4-80 and he has produced the relevant record registers showing the consistent action of the Society. The witness Raguvir states that in Feb., '80 on same day while he was in service of the Society he was asked by the management to go the workman's residence and to meet her. He went to her house to ask why she had not come for work. He met the mother of the workman and enquired about Leela Sawant and why she had not come for work. The mother told him that she was not in the house and she did not tell him where she had gone or whether she was out of town. There seems to be some truth in the statement of the witness because the workman herself states that her family members got scared when the Society man came to her house to enquire about her. This shows the attitude of the workman's family members. On the showing of the workman herself the management had no malice towards her and even according to her this is not a case of victimisation. While making submissions on behalf of the workman, workman's representative Shri P. Ghodge stated before me that the absence between 1st Jan., '80 till 31st May, 1980 is admitted, but the conduct of the workman has to be considered after 1-6-80 when she approached the management with the letter. He admits that there is no evidence in writing showing that she had approached the management before 1-6-80. According to him she was suffering from nervous breakdown and this part of her statement is not challenged in the cross examination. According to him, it is doubtful whether she really refused the letters because the endorsement of the Postman on the letters cannot be considered to be true. However, I find that under law and under General Clause Act, the postal endorsement have to be accepted for the face value and those want to challenge have to prove it. Lastly, he claims that the extreme penalty of termination is dis-proportionate to her fault because she had a long service of 12 years starting from 1st April, '68 and during this period there was no complaint of any sort against her. He further stated that no domestic enquiry was held in the matter and for this he relies on 1982 S. C. C. P. 124. As against this Shri Lele for the Society did point out before me the details of the conduct of the workman and I have already dealt with some in details in the foregoing paragraphs. According to him the letter Exb. 5 was issued

under rule 22(a) (a) of the Shop Act because the action of the workman amounted to misconduct, willful disobedience of the orders of the Superiors which amounts to in-subordination. According to him she was an important employee having worked for 12 years or more and her abrupt absence was likely to jeopardise the activities of the Society. He admits that no enquiry was conducted in the matter but according to him holding an enquiry was rather superfluous because the conduct of the workman itself has given rise for the action of the Society and the Society is not responsible for the action which it has taken against workman Leela Sawant. He has relied on the famous case of M. R. F. reported in 1973 L.L.J. wherein Sec. 11-A is discussed in detail. Hence, he claims that the action of the Society is justifiable and the workman cannot be reinstated into the services.

9. While considering the position u/s 11-A of the I. D. A. I find that the position under law has changed to a great extent and whenever there is industrial dispute regarding discharge or dismissal of the workman the Labour Court or Tribunal can set aside the order of dis-charge or dismissal or give such other relief to the workman including the award for lesser punishment in the circumstances of the case may require. In the instant case I find that a case of nervous break down is made out on behalf of the workman. The episode took place about 8 years back and I feel that the workman has not come out of the trauma and she still appeared to be a victim of trauma or physic or a similar type of behaviour in a mid aged spinster. The vacant look and the hap-hazard replies given by her in the Court indicated that she is a victim of circumstances and the loss of service has added to her condition of nervous break down and she does not seem to have recovered from the same. It will be rather hazardous or risky to install such a person in the Society which is run for the welfare of the members of the public. Hence, I feel that this is not a fit case for reinstatement into services and so far as this aspect is concerned I am construed to hold that the action of the management in issuing the notice of termination dated 19-4-80 is just and legal in the circumstances of the case and it cannot to be stated that the action of the management was wrong and bad. They acted in a high handed manner in the whole episode. This finishes the first part of the reference namely whether the action of the management is just, fair and proper in the circumstances. About the alternative relief to be given, Shri Lele for the management did submit before me that the Society has no objection if relief is given to the workman u/s 25 FF of the I. D. Act by awarding her 15 days wages per year for the past service of 12 years. I find that the Society has taken the action u/s 39 of the Shop Act and the Sec. gives the right to the management in case of a workman who has served for more than 6 months to give one month's notice in writing or wages in lieu thereof and gratuity amounting to 15 days average wages for each year of continuous employment when the services are terminated with a reasonable cause and on account of misconduct. I find that the Society has terminated the services of the

workman for a reasonable cause and there is abundant evidence showing misconduct on the part of the workman. Hence, considering the provisions u/s 39 of the Shop Act and 25 FF of the I. D. Act, collectively, I propose to award the wages of one month in lieu of the notice and gratuity for 15 days average wages for each year of continuous service. The workman has served for more than 12 years before termination and so she will be entitled to wages of 6 months by way of Gratuity as per Sec. 39(2) where the Gratuity is payable under Sub-Sec. (1), the workman will be entitled to receive the wages from the date of termination until the date of which the gratuity is payable actually and subject to maximum of wages for 2 months. This is how I award her the wages for 2 months u/s 39(2) of the Shop Act. This is the maximum relief which can be granted to the workman. Under Sec. 40(2) the authority under the Act, while considering the dismissal can direct reinstatement or belate payment of compensation without reinstatement or grant any other relief. I feel that the workman should be given some compensation u/s 40(2) of the Shop Act and I direct that she be given a compensation of Rs. 1000/- in addition to the benefits stated above. In the result, I pass the following order.

ORDER

It is hereby declared that the action of the employer of M/s. Adarsh Sahakari Grahak Saunstha Ltd., Margao, Goa in terminating the services of Leela Sawant, Accounts Clerk w.e.f. 1-1-80 is legal and justified and the same does not call for any interference.

However, the management of the Society is directed to pay to the workman the wages for one month in lieu of notice, wages for 6 months as Gratuity for continuous service for 12 years, wages for 2 months for delay in payment of gratuity & compensation of Rs. 1000/- in addition to the above. For computation the wages drawn by the workman in Dec., '79 should be taken as the basis.

In the circumstances of the case, parties are directed to bear their own costs. The award be reported to the Govt.

S. V. Nevagi
Presiding Officer
Industrial Tribunal.

Order

No. 28/36/87-LAB

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Governor of Goa,

Subhash V. Elekar, Under Secretary (Labour).

Panaji, 10th November, 1989.

**IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI**

(Before Shri S. V. Nevagi, Hon'ble Presiding Officer)

Ref. No. IT/6/88

Workmen — Workmen/Party I
V/s

M/s. Goa Oxygen Pvt. Ltd. — Employer/Party II

Workmen represented by Shri Subhas Naik, Secretary, Goa Trade & Commercial Workers' Union.

Employer represented by Adv. M. S. Bandodker.

Panaji, Dated : 29-9-1989.

AWARD

This is a reference made by the Government of Goa, by its order No. 28/36/87-ILD-Part dated 8th February 1988 with an annexure scheduled thereto which reads as follows :

"Whether the following demands raised by the Goa Trade and Commercial Workers' Union before the management of M/s. Goa Oxygen Pvt. Ltd., St. Jose de Areal, are justified ?

If not, to what relief the workmen are entitled ?"

Demand No. I :

Pay Scale & Grades : It is demanded that the following Pay-scales be made applicable to the work-persons employed at M/s. Goa Oxygen Pvt. Ltd. as per their respective designation and work.

Grade	Designations	Pay-Scales
I	Office-boy, Helper, Cleaner, Watchman, Sweeper	300—15—375—20—475 5 5
II	Jr. Clerk, Jr. Operator	375—20—475—25—600 5 5
III	Driver, Fitter, Operator, Electrician, Jr. Chemist	450—25—575—30—725 5 5
IV	Selection Grade	500—40—700—50—950 5 5

Demand No. II :

Flat Rise & Fitment : It is demanded that each work-person in Grades I & II shall be given a Flat-Rise of Rs. 200/- & that in Grade III shall be given a Flat-rise of Rs. 250/- in their Monthly respective Basic Salary as available on 1st December, 1986.

After adding this Flat-Rise of Rs. 200/- & Rs. 250/- as per their respective Grade, each workman's basic be fitted in the respective Scale-Pay as follows :

Those whose basic salary falls short of the beginning of the first stage in the respective pay-scale shall be fitted in the first stage in the pay-scale; and those whose basic salary falls in between two stages in the scale pay shall be fitted in the next higher stage in the

respective pay-scale. This shall form the New Basic Salary of each Workman.

Demand No. III :

Seniority-Increments : It is demanded that each workman shall be given Seniority Increments depending upon the number of years of service in the concern.

Those who have completed 3 years of service as on 1st December, 1986 shall be given one Extra Seniority Increment & those who have completed 6 years of service shall be given Two Seniority Increments.

Demand No. IV :

Fixed Dearness Allowance : It is demanded that the Management ought to pay Rs. 300/- per Month towards Fixed Dearness Allowance to each workperson.

Demand No. V :

Variable Dearness Allowance (VDA) : It is demanded that the Management pay each workman a Variable Dearness Allowance at the rate of Rs. 1/50 per point rise over & above AAICPI 500 (1960-100). VDA should be calculated every quarterly in the year.

Demand No. VI :

Food Allowance : It is demanded that each workman be paid Rs. 78/- per month towards food allowance.

Demand No. VII :

House Rent Allowance : It is demanded that each workman be paid a House Rent Allowance at the rate of Rs. 100/- per month.

Demand No. VIII :

Special Sunday Allowance : It is demanded that each workman be paid a sum of Rs. 100/- per month as special allowance.

Demand No. X :

Washing Allowance : It is demanded that each workman be paid a washing allowance at the rate of Rs. 25/- per month.

Demand No. XI :

Bhatta : It is demanded that each workman who is sent on out-door duty shall be paid a Bhatta of Rs. 20/- per shift within the territory of Goa.

Demand No. XII :

Uniforms : It is demanded that each workman be issued Three Pairs of uniforms per year.

Demand No. XIV :

Leave Facilities : It is demanded that each workman should be given the following leave facilities;

PL — 30 days; C. L. — 10 days; SL — 10.

After the above Govt. reference was registered and after notices were issued to the parties the Union filed Statement of claim Exb. Four on 14-6-1988 followed by the Written Statement Exb. 5 dated 6-9-1988. Thereafter I framed certain issues and the parties went on trial.

In the mean time the workmen went on strike and the Govt. had already prohibited the strike by order Exb. 3 dated 12-3-1988.

While this was the position, a settlement took place between the parties before the Commissioner, Labour and Employment and the settlement U/s. 12(3) of the Act was recorded and to-day the copy is presented before me for passing an Award in terms of the settlement. Hence the following Award which is in-terms of the settlement as below :

ORDER

1. By virtue of the Award the closure of the company and the lock-out are lifted and the factory of M/s. Goa Oxygen Pvt. Ltd. at Margao Salcete Goa shall be re-opened and shall start functioning from 3rd October, 1989.

2. All the workmen whose names are listed in Annexure 'A' shall be taken back in the service with continuity i. e. without any break in service. However, they shall not be entitled to the wages from 15-1-1989 to 2-10-1989 viz. the strike period and period of closure.

3. The above workmen shall be paid an ex-gratia amount at the rate of Rs. 160/- per month for the period between 1-1-1987 to 15-1-1989 (excluding strike period).

4. This amount of Rs. 160/- per month shall be paid to the workmen in lump sum on the day of the re-opening of the factory.

5. Each of the above workmen shall be paid an amount of Rs. 200/- per month additionally from 15-1-1989, the break up for which is as follows :

Fixed D. A.	... Rs. 150.00
House Rent Allowance	... Rs. 30.00
Food Allowance	... Rs. 20.00

6. The Management shall also give a rise of Rs. 50/- w.e.f. 1-10-1990 which shall be treated as a rise in fixed D. A. Thereafter, again there shall be given a rise of Rs. 50/- per month from 1-10-1991 which again shall be added to fixed D. A.

7. The above settlement shall remain in force and shall be operative till 31-3-1992.

8. The annual increment which fell due from 1-1-89 shall be released and the workmen shall continue to get their annual increment in respective scales falling due on 1st January annually. The recoveries of dues towards advance loans etc. shall be done in the normal course.

9. It is understood that the civil and criminal cases filed against each other are to be withdrawn immediately.

10. The workmen shall be entitled to the form of dress suit etc. as before without raising any additional demands.

11. Any dispute regarding the settlement shall be settled by direct negotiations through peaceful and legal means.

12. Some workmen of selected category as identified by the management shall attend work on declared national and festival holidays as and when required, subject to payment/compensatory holidays as per existing practice.

13. There shall be co-operation and better relationship between the workmen and the management.

14. The 9 workmen who have served their relationship shall not get any benefit under the settlement.

15. The Watch and Ward staff shall be absorbed in the factory against suitable vacancies.

The above Award shall remain operative till 31-3-1992.

There shall be no order as to costs.

Inform the Government accordingly about the passing of the Award in terms of the Settlement.

S. V. Nevagi
Presiding Officer
Industrial Tribunal.